

INDIANA PUBLIC DEFENDER COUNCIL

Board Retreat

September 26, 2009

Hilton Garden Inn

Bloomington, Indiana

MINUTES

I. CALL TO ORDER

The meeting of the Board of Directors of the Indiana Public Defender Council (IPDC) was called to order by Chair Mike McDaniel at 9:20 AM in the Bluff Room of the Hilton Garden Inn. Board members present were Susan Carpenter, David Cook, David Hennessy, Michelle Kraus, Mike McDaniel, Sonya Scott and Neil Weisman. Staff present were Larry Landis, Paula Sites, Don Murphy and Loretta Jackson.

II. APPROVAL OF MINUTES

The Minutes of the January June 25, 2009 meeting were unanimously approved as submitted.

III. PERSONNEL AND PROJECT UPDATES

Paula reported on the following:

Kent Zepick was hired in August and has written the amicus brief for the Malenchik case which will decide whether the LSI-R should be used in determining sentences. Stacy Uliana is now half-time contract. Paula is taking a three month sabbatical from October 5, 2009 to January 4, 2010.

The web site redesign is completed but we are waiting for the google search appliance to be installed and beta-tested before going live. The Indiana Office of Technology is the primary hold-up. Once we are live, all IPDC manuals will eventually be on-line and fully searchable, with case cites having a direct link to Lexis.

Jack is taking responsibility for the manuals. We are slightly behind schedule on updates due to the staff shortage. Amy Karozos is working on a TPR manual and is approximately two-thirds completed. Joel Schumm has completed revising the Appellate Practice Manual

The Board made the following recommendations:

1. Have laptops set up at seminars to demonstrate how the google search engine works on the IPDC website.
2. Encourage our members to subscribe to Lexis to get the full benefit of the hypertext link from cases in IPDC publications.
3. When the staff attorneys take research calls they offer to get on-line with the caller to

walk the caller through the process of searching our site for the information, and not just inform the caller that it is on our site.

4. Post amicus briefs on our site and send out a link via e-mail to inform our members of their availability.
5. Highlight our work in high-impact cases and research on novel questions in the Defender.
6. Include a notice in the monthly Defender e-mail notifications that a hard copy subscription is available for \$25.00 per year.
7. Develop a group rate for PD Offices who subscribe to the hard copy of the Defender.
8. Create a basic how-to guide to challenge forensic experts with links to resources available on-line and a brief guide and index of resources for defending shaken baby cases.

IV. TRAINING

Don Murphy made the following observations stated in his written report:

A. Seminars:

1. The objective for 2010 is to reduce the number of one-day seminars and increase the number of chief PDs sponsoring in-house training, which can be tailored to specific performance issues in their counties.
2. Currently 15 of the 29 Chiefs have committed to starting in-house training that is CLE-qualified. Marion County has already qualified and Vanderburgh County is in the process of becoming a CLE sponsor.

Discussion by the Board led to the following decisions:

1. The public defenders in counties who do not have Chief PDs should be invited to participate in the regional training.
2. Seminars/training should consist of fewer "talking heads" and more interactive small-group activities.
3. The training committee will become more active in design and content of programs.
4. Dave Shircliff will be asked to join the Training Committee.
5. The bi-annual two-day death penalty seminar should include non-capital information, such as sentencing, on one day.
6. We should look into taping the training done by the State Public Defender Office on PCR and transfer petitions for inclusion in our on-line training programs.
7. It was decided to hold the following seminars in 2010:
 - a. OWI
 - b. TPI
 - c. Juvenile/TPR/CHINS
 - d. Appellate
 - e. Annual Update

- f. Drugs, Evidence, Search & Seizure
- g. Ethics

B. Coaching/Mentoring

Don Murphy reported that the Chiefs would like to see the coaching program return and that IPDC plans to submit a grant proposal to restart the coaching program. However, because it is too expensive for an IPDC employee/contractor to be the only mentor, the plan is to train regional mentors with the IPDC office acting as a resource. Hennessy suggested we also see if we can get the private bar involved.

C. Quality and Performance Reviews

Don reported that IPDC and the Indiana Chief Defender Association (ICDA) are working to develop a uniform performance management system that measures performance and provides feedback on the quality of indigent defense services. He also gave a brief synopsis of what some counties are currently doing to measure performance.

D. JTAC PD Module

Don reported that a prototype of the PD module for the statewide case management system has been designed. Unfortunately, we are out of funds and a recent grant proposal for stimulus funding was denied. IPDC paid \$50,000 to JTAC for 2010 to continue work for another 90 days to build the core technical requirements. Another grant proposal will be submitted next month to continue work on the PD module.

V. GOALS/STRATEGIC DIRECTIONS

Due to the current financial situation in the state, Larry recommended a shift in priorities from statewide delivery and funding of all defense services to getting 100% state funding for chief and deputy chief public defenders, with counties being required to opt into the state reimbursement system in order to get the state to pay the chief's salary.

VI. LEGISLATION

Larry reported that the Sentencing Policy Study Commission plans to re-visit the expungement issue. He thinks chances of passage have improved because of state support for re-entry programs and the inability of offenders to find employment.

Larry also reported on the problem of dealing with the mentally retarded and developmentally disabled in the criminal justice system. Hennessy suggested that someone is needed who can evaluate and screen clients so they can be moved into a different tract in the PD system. Larry asked for ideas and proposals for a legislative solution by November 1.

The Criminal Code Study Group has been appointed. IPDC created a chart showing changes in the criminal code since 1977. Many of the offenses and penalties have been upgraded

and there are many more new offenses. Larry stated we need to do a survey of other states to show how our code compares. He reported there is consensus for fixing the drug offenses and the other big push is for sentencing modification after 365 days without the prosecutor's approval. Other suggestions were reinstating 2 for 1 credit time for home detention, improving juvenile waiver of counsel and prohibiting the death penalty for the mentally ill. Larry needs other suggestions by November 1.

VII. NEW BUSINESS

A discussion of the need to control the off-topic and often vitriolic messages on defendnet led to the following decision: The 'netiquette' rules will be revised based on the NACDL guidelines to specifically include banning political commentary and personal attacks.

Violation of the rule will result in progressive sanctions. The first offense gets a private warning. The second offense results in a 30 day suspension. The third offense results in a life-time ban, which can be appealed to the board.

VIII. ELECTION OF OFFICERS

The current slate of officers of Mike McDaniel (Chair), Dave Cook (Vice-Chair) and Micki Kraus (Secretary) was nominated for a second term. The board unanimously approved.


IX. NEXT BOARD MEETING

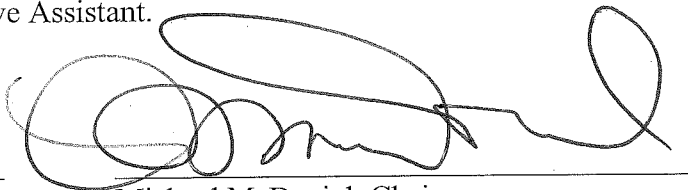
The next board meeting will be held on Thursday, December 10, 2009.

The meeting was adjourned at 3:10 P.M.

Prepared by Loretta Jackson, Executive Assistant.

Submitted:


Michelle Kraus, Secretary


Michael McDaniel, Chair

INDIANA PUBLIC DEFENDER COUNCIL

Board Meeting

May 7, 2009

Renaissance Hotel North

Carmel, IN

MINUTES

I. CALL TO ORDER

The meeting of the Board of Directors of the Indiana Public Defender Council (IPDC) was called to order by Chair Mike McDaniel at 6:20 PM in the Carmichael Room of the Renaissance Hotel. Board members present were Susan Carpenter, Dave Cook, David Hennessy, Bob Hill, Micki Kraus, Jeff Lockwood, Sonya Scott, and Lorinda Youngcourt. Staff present were Larry Landis, Teresa Campbell, Don Murphy and Loretta Jackson

II. APPROVAL OF MINUTES

The Minutes of the January 31, 2009 meeting were unanimously approved.

III. EXECUTIVE DIRECTOR'S REPORT

A. New Staff Attorney

The Council will create a new research/publications staff attorney. Stacy Uliana will convert from full-time staff to part-time contract in order to accept private cases.

B. Budget

The legislature did not pass a state budget in the regular session. The budget bill approved by the Senate and defeated by the House funding for the Council as the same level as the current biennium.

The budget bill did include an additional \$3.6 million per year for the Public Defender Commission. The Commission needs an additional \$3 million in the second year in order to fully reimburse participating counties. The meeting materials included a sample letter to legislators urging the passage of the PD Commission funding request. Larry asked the board members to edit appropriately and send the letter to their Senators and Representatives. He also asked that they ask their county's Public Defender Boards and/or County Council members to contact their legislators.

C. Grant

The 2009 ICJI grant has two goals: (1) create policies, procedures and tools to measure the quality of indigent defense representation; and, (2) create a state-wide computerized management information system for indigent defense services. A full

report on the grant project will be provided at the next board meeting.

D. Web-Site

We are in the process of redesigning our web-page, and purchasing and installing a the Google-mini search engine for members to search our web-page. The Attorney General's office is negotiating with Lexis on the contract for the search engine. We have hired Chris Ross to redesign the web-site.

E. Publications

The updated Pretrial, Trial, Juvenile, Search & Seizure and Confessions manuals will be ready for distribution at the Annual Update Seminar. The Sentencing Manual update is behind schedule.

F. Legislative Session

Larry reported on bills before the legislator upon which the Council Board took a position. Bills of note that passed include:

SB 34 - assisting a criminal, which permits the prosecution of a person for assisting even if the person that was assisted was never prosecuted or convicted, or has been acquitted.

SB181 - amends child seduction statute by expanding the "position of trust" definition to include persons employed by a school or otherwise affiliated with it; establishes procedure for releasing medical information relevant to prosecution or defense of person charged with transmitting a disease; and allows court to order a person so charged to submit to testing.

SB 236 - enhances the sentence for feticide.

HB 1491 - created a 6th District court of appeals. Larry thinks the Governor will veto.

HB1175 - victims' rights bill. Conflicts with court rules.

G. Lobbying and PAC

Larry discussed the benefits of having a criminal defense Political Action Committee (PAC) and a 501(C)(4) not-for-profit corporation to do lobbying that the Council cannot do. such organizations would be separate from the Public Defender Council and would have their own boards. After a discussion, the Board decided to explore the concept of the formation of a 501(C)(4) corporation and a PAC.

III. INDIGENT DEFENSE SYSTEMS

Lorinda Youngcourt expressed concern that the creation of a fully state-funded indigent defense system would eliminate the economic disincentive to filing a death penalty case. She referred to the problems in Kentucky, which has a state-funded system and 160 pending death penalty cases. Because local communities are not responsible for paying for the cost of a death penalty case, it does not affect the local prosecutor or budgets. Lorinda believes that counties should have a funding stake in the prosecution and defense of capital cases.

Further discussion of funding of indigent defense systems was tabled until the next board meeting, but it was agreed that this is an important consideration, and needs to be addressed.

IV. NEW BUSINESS

Lorinda brought up the problem with the active monitoring GPS for home detention. It requires cell phone service which is not available in all rural areas. She said she would be willing to draft a proposed modification to the statute for consideration at the next Board meeting.

V. NEXT BOARD MEETING

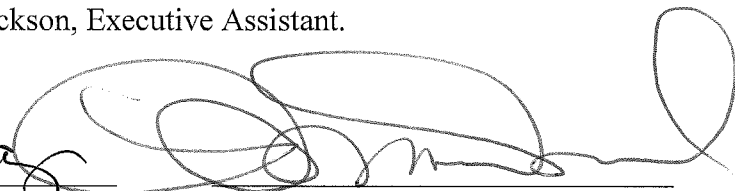
The next board meeting will be held at 6:00 on Thursday, June 25, 2009, prior to the annual update seminar on June 27.

The Board went into executive session at 8:00 PM.

Prepared by Loretta Jackson, Executive Assistant.

Submitted:


Michelle Kraus, Secretary


Michael McDaniel, Chair

INDIANA PUBLIC DEFENDER COUNCIL

Board Meeting

June 25, 2009

Cambria Suites

Plainfield, IN

MINUTES

I. CALL TO ORDER

The meeting of the Board of Directors of the Indiana Public Defender Council (IPDC) was called to order by Chair Mike McDaniel at 6:10 PM in the Board Room of the Cambria Suites. Board members present were Dave Cook, David Hennessy, Bob Hill, Micki Kraus, Jeff Lockwood, Sonya Scott, Neil Weisman and Lorinda Youngcourt. Staff present were Larry Landis, Teresa Campbell, Don Murphy, Jodie English and Loretta Jackson

II. APPROVAL OF MINUTES

The Minutes of the January May 7, 2009 meeting were unanimously approved.

III. EXECUTIVE DIRECTOR'S REPORT

A. Budget

Larry stated that the legislature approved the requested \$3 million increase for the Public Defender Commission reimbursement fund for a total budget of \$18.25 million and will allow full 40% reimbursement for participating counties. He also reported that the Public Defender Council budget has been fully funded.

Larry reported on the need to gather data regarding contract public defenders' overhead costs. He stated that PD Commission staff attorney Deb Neal has been comparing salaries of part-time public defenders and prosecutors with approximately the same salary. However, prosecutors have access to an office and support staff at no personal cost to them, which looks like PDs are either over-compensated or under-worked. We need data from counties on overhead costs in order to show that a \$30,000 contract is not really \$30,000 in income.

B. New Attorney Position

Larry reported that we have received applications from many well-qualified individuals and have so far interviewed four persons for the position.

C. JTAC/PD Module

Don Murphy reported on the progress of the public defender module of the case management system. A prototype was demonstrated at the PD administrators meeting in April and it was well received. It was initially planned to have a pilot release in September but budget problems have delayed it. A grant from the federal stimulus funds is being sought to continue working on the PD module. When complete, PDs will be able to upload files to the system, download files from JTAC, have the ability to assess performance. The PD module will be separate from Odyssey and prosecutors will not be

able to access PD information.

D. Quality Standards

Don reported that since our last meeting, Jim Abbs of Noble county has started meeting with attorneys to discuss performance based on the following five standards: (1) meet weekly with attorney; (2) observe attorneys in courtroom weekly; (3) investigate complaints/review requests for different attorney; (4); speak with judges and other court personnel monthly; (5) yearly evaluations. Vanderburgh, Tippecanoe and Marion counties are considering starting a quality assessment program. Shelby and Lake counties are also interested. Don mentioned an internet software company that has a quality assessment system used for doctors and he is looking into the possibility of creating a system for attorneys. He has also met with Regina Baker, a quality control engineer, who helps clients build quality control systems.

E. Committees

Larry requested that the Training Committee meet via conference call regarding the evidence seminar in July at the IU Law School in Indianapolis. Mike McDaniel, as chair, should consider re-appointing or adding new members.

F. Lobbying/PAC

Larry reported on the status of the PAC. There is approximately \$1100 in the Indiana Justice Fund that can be used for mailings. Andrew Cullen had a table at the annual update to speak to people about the PAC.

G. Forensic Diversion

Larry reported that there is several million dollars in federal stimulus money available and he is attempting to get counties' community corrections departments to file grant requests for forensic diversion programs.

III. INDIGENT DEFENSE SYSTEMS

The Board needs to get back on schedule working on a state-funded system. Larry will encourage C.J. Shepard to get a working committee set up and the IPDC Board needs to figure out what comes between the Public Defender Commission and the counties. We need to have something by the next legislative session.

IV NEW BUSINESS

Jodie English suggested that, based on the NAS report on forensic science, that a group be assembled that can be on-call for local public defenders who want to litigate a forensics issue. David Hennessy said it would be better to train local PDs to do it themselves rather than doing it for them. Larry said at the very least we should have a packet of information we can send to anyone who requests it. Jodie will assemble motions and pleadings that can be used.

Neil asked about the possibility of once again providing the Defender in hard copy, because people are not reading it on-line. Larry will put this on the agenda for the Board Retreat.

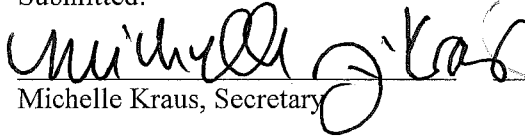
V. NEXT BOARD MEETING

The Annual Board retreat will be held in Bloomington on September 25-26.

The Board went into executive session at 7:25 PM.

Prepared by Loretta Jackson, Executive Assistant.

Submitted:


Michelle Kraus, Secretary


Michael McDaniel, Chair

INDIANA PUBLIC DEFENDER COUNCIL

Board Meeting
January 31, 2009
Hyatt Regency Hotel
Indianapolis, IN

MINUTES

I. CALL TO ORDER

The meeting of the Board of Directors of the Indiana Public Defender Council (IPDC) was called to order by Chair Mike McDaniel at 1:20 PM in the One South Restaurant of the Hyatt Regency Hotel. Board members present were Zaki Ali, Dave Cook, David Hennessy, Micki Kraus, Neil Weisman, and Bob Hill. Lorinda Youngcourt attended by phone. Staff present were Larry Landis, Teresa Campbell, Andrew Cullen and Loretta Jackson

II. APPROVAL OF MINUTES

The Minutes of the December 11, 2008 meeting were amended to show Micki Kraus in attendance and unanimously approved.

III. LEGISLATION

The Board of Directors unanimously approved the following positions on proposed legislation (S = support; O = oppose; NP = no position):

- O HB1020 Ignition interlock devices.
- O HB1021 Disregarding school bus stop sign.
- O HB1059 Child molesting.
- O HB1065 Mandatory ignition interlock for DUI.
- O HB1101 Arrests for violations of motor vehicle laws.
- O HB1115 Controlled substances and children.
- S HB1120 Problem solving courts - Support with modification to include that if a person does not successfully complete a program and charges are re-instituted, the sentence automatically becomes suspendible.
- O HB1121 Identity theft.
- S HB1131 Criminal law and sentencing policy study committee.
- O HB1137 Sex offenses and the Internet.
- O HB1152 Child seduction. Amend to state that child care worker, affiliated with school, in a position of trust, and more than 4 years older than victim
- S HB1174 Juvenile confessions.
- O HB1175 Victims' rights.
- S HB1208 Health, mental health, and addiction matters.
- O HB1260 Frivolous litigation.
- S HB1261 Sex offender procedures.
- O HB1262 Statute of limitations for sex offenders.
- NP HB1265 Child abuse or neglect records.
- O HB1284 Battery.
- O HB1313 Sex offenders in homes with children.
- NP HB1320 Criminal background checks for teachers.

S HB1328 Custodial interrogation recording.
 O HB1342 Juvenile home detention.
 NP HB1361 Sex offender registry.
 O HB1407 Sex offenders (oppose provision that a plea agreement may include that person register as sex offender)
 S HB1421 Death penalty moratorium and fair sentencing study.
 S HB1422 False reporting by correctional officers.
 O HB1439 DNA testing for arrestees.
 S HB1443 Expungement of certain conviction records.
 O HB1456 Drug courts and children in need of services.
 O HB1458 Child in need of services.
 NP HB1462 Criminal history checks.
 NP HB1468 Animal cruelty.
 O HB1489 Use of minor's identity for sexual gratification.
 O HB1501 Certain sex offenders and school property.
 NP HB1521 False campaign material.
 O HB1545 Sentencing for methamphetamine offenses.
 O HB1566 Methamphetamine production.
 NP HB1578 GPS monitoring and restraining orders.
 O HB1584 Child exploitation.
 O HB1609 Battery on a sports official or utility worker.
 NP HB1630 Mutilation of a corpse.
 O HB1642 Trafficking in cellular telephones with inmates.
 O HB1644 Death penalty executions.
 S HB1673 Discharge of long term inmates.
 O HB1690 CHINS, sex offender, and child molester registry.
 O HB1698 Sentence enhancement for feticide.
 O SB0003 Juvenile DNA testing.
 O SB0004 Use of DNA evidence.
 O SB0007 Resisting law enforcement and license suspension.
 S SB0009 Restricted disclosure of certain arrest records.
 NP SB0021 Theft of metal.
 S SB0022 Death penalty and mental illness. Support except for provision permitting client to waive jury in sentencing hearing. Larry will have Paula Sites talk with death penalty litigators to seek their opinion on this provision
 NP SB0023 Animal fighting contests.
 O SB0024 DNA for felony arrestees.
 O SB0034 Assisting a criminal.
 O SB0041 Attempted sex crimes as enhancement at sentencing.
 O SB0045 Bail.
 NP SB0047 Conversion by failure to return rented property.
 O SB0048 Child solicitation.
 NP SB0056 Battery and sexual battery.
 NP SB0091 Bias crimes.
 O SB0092 Sex offenders and the Internet.
 NP SB0129 Child seduction.
 S SB0172 Electronic recording of custodial interrogations.
 O SB0181 Child seduction.
 NP SB0182 Criminal history checks.
 NP SB0183 False statements to state agencies.
 S SB0186 Criminal code evaluation commission.

NP	SB0189	Ephedrine and pseudoephedrine.
NP	SB0222	Killing a domestic animal.
O	SB0223	Trafficking cell phones with inmates.
O	SB0231	Battery.
O	SB0235	Stay away orders. (duplicative of current law)
O	SB0236	Sentence enhancement for feticide.
O	SB0237	False informing and DNA collection.
NP	SB0238	Crimes against animals.
NP	SB0239	Sex or violent offender registration.
NP	SB0244	Offender reentry administrative account
NP	SB0250	Bail.
NP	SB0252	Operating while intoxicated.
O	SB0261	Reimbursement of jail costs.
O	SB0272	Interference with custody.
O	SB0273	Child molesters and credit class IV.
O	SB0274	Ignition interlock devices.
O	SB0276	Habitual offender filing deadline.
O	SB0277	Nonsupport of a dependent.
O	SB0278	Retail theft.
NP	SB0279	Remote alcohol monitoring detention. Amend to provide service to indigent defendants without charge
NP	SB0290	Theft of valuable metal.
NP	SB0292	Police powers of correctional police officers.
S	SB0293	Support only if "reasonable amount" and "indigent" is defined.
O	SB0294	Identity deception.
O	SB0296	Death penalty executions.
O	SB0297	Medical examiners and coroners. Oppose a separate child death pathologist, but do support the Medical Examiner concept
S	SB0311	Credit time for tutoring inmates. Needs refinement - define tutoring
S	SB0331	Sex offender registry.
O	SB0350	Removal by deceit.
O	SB0352	Rioting at penal facilities. Too vague; fear that it will be used as a way to take away good time credit.
O	SB0360	Neglect of unborn child.
NP	SB0390	Bail.
S	SB0392	Expungement of arrest records.
NP	SB0398	Unattended children in cars.
S	SB0425	Expungement of felonies.
O	SB0445	Intimidation.
O	SB0542	Ignition interlock devices.
S	SB0547	Expungement of criminal records.

IV. OTHER BUSINESS

Larry reported that there is no movement on full state funding of indigent defense due to the current economic crisis. The Chief Justice will appoint a working group to draft a proposal for a state-wide system. Larry's primary focus now is increasing the funding of the Public Defense Fund from \$15.25 million to \$20 million per year.


V. NEXT MEETING

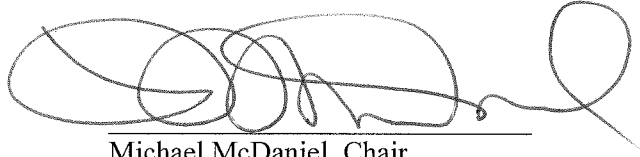
The next meeting of the Board of Directors will be Thursday May 7 at 6:00 PM.

The meeting was adjourned at 4:00 PM.

Prepared by Loretta Jackson, Executive Assistant.

Submitted:


Michelle Kraus, Secretary


Michael McDaniel, Chair